

ESTTA Tracking number: **ESTTA484474**

Filing date: **07/19/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	BHPC ASSOCIATES LLC		
Entity	limited liability corporation	Citizenship	Delaware
Address	1370 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Robert L. Epstein Epstein Drangel LLP 60 East 42nd Street, Suite 2410 New York, NY 10165 UNITED STATES mail@ipcounselors.com Phone:2122925390
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Applicant Information

Application No	85458112	Publication date	06/26/2012
Opposition Filing Date	07/19/2012	Opposition Period Ends	07/26/2012
Applicant	Polo Gear Intellectual Properties, Inc. 544 Pass Creek Rd Parkman, WY 82838 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 1995/12/31 First Use In Commerce: 1995/12/31
All goods and services in the class are opposed, namely: clothing for wear in equestrian activities, namely, athletic uniforms, pants, shorts, shirts, underwear, socks, boots, shoes, belts, suspenders, gloves, hats, and caps


Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1429311	Application Date	11/12/1985
Registration Date	02/17/1987	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1985/02/18 First Use In Commerce: 1985/02/18 CLOTHING FOR MEN, WOMEN AND CHILDREN-NAMELY SHIRTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, PANTS, UNDERWEAR, CAPS, JACKETS, [LEOTARDS, DRESSES, PONCHOS]

U.S. Registration No.	1751058	Application Date	10/01/1991
Registration Date	02/09/1993	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1991/05/31 First Use In Commerce: 1991/05/31 ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses</p> <p>Class 014. First use: First Use: 1991/08/31 First Use In Commerce: 1991/08/31 watches</p> <p>Class 018. First use: First Use: 1991/03/31 First Use In Commerce: 1991/03/31 wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses</p> <p>Class 024. First use: First Use: 1991/03/01 First Use In Commerce: 1991/03/01 beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers</p> <p>Class 025. First use: First Use: 1989/10/31 First Use In Commerce: 1989/10/31 clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts</p>		

U.S. Registration No.	2214846	Application Date	08/08/1994
Registration Date	12/29/1998	Foreign Priority Date	NONE
Word Mark	BEVERLY HILLS POLO CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/10/01 First Use In Commerce: 1994/10/01 footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes		

Attachments	73568042#TMSN.gif (1 page)(bytes) 74209022#TMSN.gif (1 page)(bytes) 74558586#TMSN.gif (1 page)(bytes) 071912 notice of opposition.pdf (18 pages)(348669 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/robert l. epstein/
Name	Robert L. Epstein
Date	07/19/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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BHPC ASSOCIATES LLC,	:	
	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	
	:	
	:	
POLO GEAR INTELLECTUAL	:	
PROPERTIES, INC.	:	
	:	
Applicant.	x	

NOTICE OF OPPOSITION



Opposer, BHPC Associates LLC, of 1370 Broadway, New York City, New York 10018, believes that it is being damaged by the application to register the mark POLOGEAR and Polo Player Design, Ser. No. 85458112, (hereinafter "POLOGEAR and Polo Player Design Mark") in International Class 025, dated October 27, 2011 and hereby opposes same.


As grounds for its opposition, Opposer, by and through its undersigned attorneys, alleges as follows:

1. Continuously and long prior to the Applicant's filing date of October 27, 2011 of its POLOGEAR and Design Mark, Opposer has offered and continues to offer a variety of goods, including clothing bearing the mark BEVERLY HILLS POLO CLUB in Design including the image of a polo player on horseback swinging his mallet (the "BEVERLY HILLS POLO CLUB and Polo Player Design mark").

2. Over a prolonged period of time, Opposer has invested a substantial amount of time, effort and money promoting its BEVERLY HILLS POLO CLUB and Polo Player Design mark and the goods bearing that mark. As a result of its promotional efforts, a tremendous volume of sales, and extensive use of the BEVERLY HILLS POLO CLUB and Polo Player Design mark, Opposer's BEVERLY HILLS POLO CLUB and Polo Player Design mark has attained widespread acclaim in the United States, and has come to be exclusively recognized as identifying the products of Opposer. Since long before any use of or alleged rights of Applicant in the mark hereby opposed, Opposer's BEVERLY HILLS POLO CLUB and Polo Player Design mark has become distinctive of Opposer's goods and represents a tremendous amount of goodwill of Opposer's business.

3. In addition to its common law rights, Opposer owns the following incontestable United States trademark registrations of the BEVERLY HILLS POLO CLUB and the Polo Player Design mark for use in the aggregate in connection with Opposer's goods:

MARK	Class(es)	REGISTRATION NUMBER	REGISTRATION DATE
	25	1429311	02-17-1987
	09,14,18,24,25	1751058	02-09-1993

	25	2214846	12-29-1998
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4. Opposer's registrations are valid, subsisting, in full force and effect, incontestable, and are evidence of Opposer's exclusive rights to use its registered marks on the identified goods, pursuant to 15 U.S.C. §§ 1057 and 1115. Current printouts from the electronic database records of the United States Patent and Trademark Office of the aforementioned incontestable registrations are attached hereto as **Exhibit A**.

5. Upon information and belief, Polo Gear Intellectual Properties, Inc. ("Applicant") filed with the United States Patent and Trademark Office an Intention to Use Application to register the POLOGEAR and Polo Player Design Mark, Ser. No. 85458112, in International Class 025, for "Clothing for wear in equestrian activities, namely, athletic uniforms, pants, shorts, shirts, underwear, socks, boots, shoes, belts, suspenders, gloves, hats, and caps", dated October 27, 2011.

6. Applicant is not connected to Opposer in any way and has not been authorized by Opposer to use the POLOGEAR and Polo Player Design Mark as reflected in Ser. No.85458112.

COUNT I: Priority and Likelihood of Confusion

7. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 6 as if fully set forth herein.

8. Upon information and belief, Opposer acquired rights in the BEVERLY HILLS POLO CLUB and Polo Player Design mark prior to any date on which Applicant can rely in connection with POLOGEAR and Polo Player Design Mark in International Class 025 as reflected in Ser. No. 85458112.

9. Opposer's BEVERLY HILLS POLO CLUB and Polo Player Design mark is the same as or similar to the POLOGEAR and Polo Player Design Mark in International Class 025 as reflected in Ser. No. 85458112 in appearance, sound, meaning and commercial impression, both marks including confusingly similar polo player images, arranged in a similar manner.

10. The goods of the respective parties in International Class 025 are identical or commercially related, and/or the conditions and activities surrounding the marketing of same are such that they would or could be encountered by the same persons under circumstances that could give rise to the mistaken belief that they originate from the same source.

11. As a result, the POLOGEAR and Polo Player Design Mark as reflected in Ser. No. 85458112, when used in connection with the goods in International Class 025 identified said application, is likely to cause confusion or mistake or to deceive and mislead the trade and the purchasing public into believing that Applicant's goods are the goods of Opposer, or that Applicant or its goods are authorized, licensed or controlled by Opposer, or that Applicant is affiliated with or in some way related to Opposer. Accordingly, any such use or and the issuance of the registration of POLOGEAR and Polo Player Design Mark in International Class 025 as

reflected in Ser. No. 85458112 would and does violate Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. By reason of the foregoing, Opposer will be damaged by the registration of the mark of POLOGEAR and Polo Player Design Mark in International Class 025 as reflected in Ser. No. 85458112.

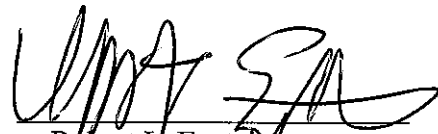
WHEREFORE, it is respectfully requested that this notice of opposition be sustained and that the Board refuse to register the POLO GEAR and Polo Player Design Mark in International Class 025 as reflected in Ser. No. 85458112.

Respectfully submitted,

EPSTEIN DRANGEL LLP

Dated: July 19, 2012

By:



Robert L. Epstein
William C. Wright
Jason M. Drangel
60 East 42nd Street, Suite 2410
New York, New York 10165
Tel. No.: (212) 292-5390
Fax. No.: (212) 292-5391

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-07-19 09:43:27 ET

Serial Number: 73568042 Assignment Information Trademark Document Retrieval

Registration Number: 1429311

Mark



(words only): BEVERLY HILLS POLO CLUB

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2007-07-09

Filing Date: 1985-11-12

Transformed into a National Application: No

Registration Date: 1987-02-17

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-07-09

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BHPC ASSOCIATES LLC

Address:

BHPC ASSOCIATES LLC
1370 BROADWAY

NEW YORK, NY 10018

United States

Legal Entity Type: LIMITED LIABILITY CORPORATION

State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

CLOTHING FOR MEN, WOMEN AND CHILDREN-NAMELY SHIRTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, PANTS, UNDERWEAR, CAPS, JACKETS

Basis: 1(a)

First Use Date: 1985-02-18

First Use in Commerce Date: 1985-02-18

ADDITIONAL INFORMATION

Design Search Code(s):

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans

02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-11-11 - Notice Of Design Search Code Mailed

2007-07-09 - First renewal 10 year

2007-07-09 - Section 8 (10-year) accepted/ Section 9 granted

2007-05-25 - Assigned To Paralegal

2007-02-15 - TEAS Section 8 & 9 Received

2007-02-15 - Attorney Revoked And/Or Appointed

2007-02-15 - TEAS Revoke/Appoint Attorney Received

2007-02-15 - TEAS Change Of Correspondence Received

2007-02-14 - Automatic Update Of Assignment Of Ownership
2006-11-07 - Case File In TICSRS
2006-09-19 - Review Of Correspondence Complete
2004-11-12 - PAPER RECEIVED
1996-03-16 - Counter claim opp. for Proceeding No.
1993-04-01 - Section 8 (6-year) accepted & Section 15 acknowledged
1992-12-31 - Section 8 (6-year) and Section 15 Filed
1987-02-17 - Registered - Principal Register
1986-11-25 - Published for opposition
1986-10-26 - Notice of publication
1986-08-29 - Approved for Pub - Principal Register (Initial exam)
1986-08-04 - Communication received from applicant
1986-02-04 - Non-final action mailed

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Karin Segall

Correspondent

KARIN SEGALL

DARBY & DARBY P.C.

P.O. BOX 5257

NEW YORK, NY 10150-5257

Phone Number: 212-527-7700

Fax Number: 212-527-7701

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-07-19 09:44:04 ET

Serial Number: 74209022 Assignment Information

Trademark Document Retrieval

Registration Number: 1751058

Mark



(words only): BEVERLY HILLS POLO CLUB

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2003-04-22

Filing Date: 1991-10-01

Transformed into a National Application: No

Registration Date: 1993-02-09

Register: Principal

Law Office Assigned: LAW OFFICE 15

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-06-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BHPC ASSOCIATES LLC

Address:

BHPC ASSOCIATES LLC
1370 BROADWAY

NEW YORK, NY 10018

United States

Legal Entity Type: LIMITED LIABILITY CORPORATION

State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses

Basis: 1(a)

First Use Date: 1991-05-31

First Use in Commerce Date: 1991-05-31

International Class: 014

Class Status: Active

watches

Basis: 1(a)

First Use Date: 1991-08-31

First Use in Commerce Date: 1991-08-31

International Class: 018

Class Status: Active

wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses

Basis: 1(a)

First Use Date: 1991-03-31

First Use in Commerce Date: 1991-03-31

International Class: 024

Class Status: Active

beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers

Basis: 1(a)

First Use Date: 1991-03-01

First Use in Commerce Date: 1991-03-01

International Class: 025

Class Status: Active

clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts

Basis: 1(a)

First Use Date: 1989-10-31

First Use in Commerce Date: 1989-10-31

ADDITIONAL INFORMATION

Disclaimer: "BEVERLY HILLS"

Design Search Code(s):

02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen

02.01.31 - Men, stylized, including men depicted in caricature form

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans

21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

Prior Registration Number(s):

1429311

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-08-09 - Notice Of Design Search Code Mailed

2008-06-11 - Case File In TICRS

2007-02-14 - Automatic Update Of Assignment Of Ownership

2006-09-19 - Review Of Correspondence Complete

2004-11-12 - PAPER RECEIVED

2003-04-22 - First renewal 10 year

2003-04-22 - Section 8 (10-year) accepted/ Section 9 granted

2003-02-13 - Combined Section 8 (10-year)/Section 9 filed

2003-02-13 - PAPER RECEIVED

2000-03-03 - Section 8 (6-year) accepted & Section 15 acknowledged

1999-12-17 - Section 7 amendment issued

1999-11-13 - Response received for Post Registration action

1999-07-28 - Post Registration action mailed - Section 7

1999-02-12 - Section 8 (6-year) and Section 15 Filed

1996-03-16 - Counter claim opp. for Proceeding No.

1993-02-09 - Registered - Principal Register
1992-11-17 - Published for opposition
1992-10-16 - Notice of publication
1992-08-24 - Approved for Pub - Principal Register (Initial exam)
1992-08-14 - Examiner's amendment mailed
1992-07-24 - Communication received from applicant
1992-07-02 - Unresponsive/Duplicate Paper Received
1992-02-10 - Non-final action mailed
1992-01-03 - Assigned To Examiner
1992-01-02 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Dennis G. Martin

Correspondent

CHARLES T.J. WEIGELL
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BLVD FL 7
LOS ANGELES CA 90025-1019

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-07-19 09:45:17 ET

Serial Number: 74558586 Assignment Information Trademark Document Retrieval

Registration Number: 2214846

Mark



(words only): BEVERLY HILLS POLO CLUB

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2009-01-21

Filing Date: 1994-08-08

Transformed into a National Application: No

Registration Date: 1998-12-29

Register: Principal

Law Office Assigned: LAW OFFICE 108

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2009-01-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BHPC ASSOCIATES LLC

Address:

BHPC ASSOCIATES LLC
1370 BROADWAY

NEW YORK, NY 10018

United States

Legal Entity Type: LIMITED LIABILITY CORPORATION

State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes

Basis: 1(a)

First Use Date: 1994-10-01

First Use in Commerce Date: 1994-10-01

ADDITIONAL INFORMATION

Disclaimer: "BEVERLY HILLS"

Design Search Code(s):

02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men

02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans

21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

Prior Registration Number(s):

1429311

1687874

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-01-21 - First renewal 10 year

2009-01-21 - Section 8 (10-year) accepted/ Section 9 granted

2008-11-25 - Assigned To Paralegal

2008-11-19 - TEAS Section 8 & 9 Received

2007-07-23 - Case File In TICRS

2007-02-14 - Automatic Update Of Assignment Of Ownership
2004-12-09 - Section 8 (6-year) accepted & Section 15 acknowledged
2004-11-15 - Section 8 (6-year) and Section 15 Filed
2004-11-15 - PAPER RECEIVED
2004-11-12 - PAPER RECEIVED
1998-12-29 - Registered - Principal Register
1998-10-23 - Allowed for Registration - Principal Register (SOU accepted)
1998-10-21 - Assigned To Examiner
1998-09-17 - Statement Of Use Processing Complete
1998-09-17 - Use Amendment Filed
1998-09-17 - Extension 1 granted
1998-09-17 - Extension 1 filed
1998-03-17 - NOA Mailed - SOU Required From Applicant
1998-01-30 - Opposition terminated for Proceeding
1998-01-30 - Opposition dismissed for Proceeding
1995-07-19 - Opposition instituted for Proceeding
1995-06-07 - Opposition papers filed
1995-05-09 - Published for opposition
1995-04-07 - Notice of publication
1995-01-09 - Approved For Pub - Principal Register
1995-01-03 - Examiner's amendment mailed
1994-12-21 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Paul Fields, Amy J. Benjamin and Abigail Rubinstein

Correspondent

Paul Fields, Amy J. Benjamin and Abigail

Darby & Darby P.C.

P.O. Box 770, Church Street Station

New York NY 10008-0770

Phone Number: 212.527.7700

Fax Number: 212.527.7701

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition was served by First Class Mail, with sufficient postage prepaid, on this 19th day of July, 2012, upon Applicant's attorney of record:

Kyle T. Peterson, Esq.
PATTERSON THUENTE CHRISTENSEN PEDERSEN
4800 IDS CTR
4800 80th South 8th St.
Minneapolis MN 55402

BY:

A handwritten signature in black ink, appearing to read 'KTP', is written over a horizontal line.
